

Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

IN RE:

JENNIFER AND EUGENE WONG, for
themselves and as parents of Student JW, a
minor,

Plaintiffs,

v.

SEATTLE SCHOOL DISTRICT NO. 1,

Defendants.

Case No. C16-1774 RAJ

JOINT PRETRIAL ORDER

COMES NOW Plaintiffs JENNIFER AND EUGENE WONG, for themselves and as
parents of JW, a minor (hereinafter “Student” or “J.W.”) by and through their attorneys of record
and Defendant, the Seattle School District No. 1 (“District”) by and through their attorneys of
record, submit the following Joint Pretrial Order as directed by the court pursuant to the
Amended Order Setting Trial Date & Related Dates entered on February 1, 2018 [ECF No. 28],
and Local Rule 16 and Federal Rule of Civil Procedure 16.

JOINT PRETRIAL ORDER - 1

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(1) Jurisdiction

This court has jurisdiction pursuant to 28 U.S.C. § 1332. This is an action for declaratory and injunctive relief, attorneys' fees and damages pursuant to Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131 *et seq.* (hereinafter also referred to as the "ADA") and Chapter 49.60 of the Revised Code of Washington and IDEA, 42 U.S.C. § 1415 *et seq.*, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 *et seq.*, ("Section 504"). The Court is vested with original jurisdiction under 28 U.S.C. §§ 1331 and 1343.

(2) Claims and Defenses

A. Plaintiffs will pursue at trial the following claims:

Plaintiffs are pursuing their claims for monetary damages and they plan to pursue the following claims at trial:

Claims for declaratory and injunctive relief, attorney's fees and damages for violations of Title II of the American with Disabilities Act, 42 U.S.C. § 12131 *et seq.*, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 *et seq.* ("Section 504") and 34 C.F.R §§ 104 *et seq.*

B. Defendant asserts as defenses the following:

At trial, the District intends to pursue the following affirmative defenses:

1. **Failure to exhaust their administrative remedies.** The Plaintiffs must exhaust the IDEA's administrative remedies before filing a civil action under the Constitution or federal laws protecting the rights of children with disabilities that seeks relief that is also available under the IDEA. The Plaintiffs failed to exhaust the IDEA's administrative remedies for all claims not raised in OSPI Cause No. 2015-SE-0018.

1 2. **Statute of limitations.** Washington's general statute of limitations for personal
2 injury claims is three years. Section 504 and the ADA lack statutes of limitations, so courts borrow
3 the most closely analogous state statute of limitations. The IDEA has a two-year statute of
4 limitations. Washington's general statute of limitations for personal injury claims is three years.
5 Plaintiffs assert claims for which the right of action accrued outside the application limitations
6 periods described above. Plaintiffs are barred from now bringing those claims.

7 3. **Judicial estoppel.** The Plaintiffs should be judicially estopped from raising some
8 or all of their claims. In OSPI Cause No. 2015-SE-0018, they argued to their benefit that J.W.
9 experienced significant academic, social, and emotional benefit from his placement at the
10 Academy of Precision Learning (APL) during the 2014–2015 and 2015–2016 school years. In
11 addition, the Plaintiffs took the position in that case that J.W.'s disabilities made any proposed
12 placement within the District's schools inappropriate. The Plaintiffs should be estopped from
13 making arguments or claims to the extent that Plaintiffs' claims are inconsistent with the position
14 they took in prior litigation.
15

16 4. **Comparative fault.** On February 7, 2014, the family of another student obtained a
17 TRO against J.W. from King County Superior Court (Cause No. 14-2-043767). The TRO
18 prohibited J.W. from attending school for ten days. The Parents did not inform J.W. that the TRO
19 was the reason he was not permitted to attend school, and J.W. formed the mistaken belief that the
20 District unilaterally prevented him from attending school. Plaintiffs did not correct J.W.'s mistaken
21 belief. In prior litigation, J.W.'s private therapist testified that this false belief is the "key" to his
22 anxiety about the District and attending one of its schools. To the extent J.W. has been injured by
23 this mistaken belief, the Plaintiffs are at fault for the injury.
24
25

5. **Payment.** The District has paid for all programing and services necessary to compensate J.W. for any denials of FAPE under the IDEA that occurred during the 2013–2014, 2014–2015, and 2015–2016 school years. To the extent the Plaintiffs seek damages relating to alleged denials of FAPE during those school years, the District has already compensated them for any such damages.

(3) Admitted Facts

The following facts are admitted by the parties:

A. In 2009, at the age of four (4), J.W. was qualified by the District for special education and related services under the Individual with Disabilities in Education Act, 20 U.S.C. §1400, et seq. (“IDEA”), under the category of Autism.

B. At all times relevant to this matter, J.W. qualified for special education and related services under the Individuals with Disabilities in Education Act, 20 U.S.C. 1400 et seq. (“IDEA”) under the category of Autism.

C. The District developed a behavior intervention plan for J.W. in or about December 2012.

D. The District developed an annual individualized education program (IEP) for JW in or about September 2013.

E. The District developed a behavior intervention plan for J.W. on or about November 2013.

F. It was reported by student R.P.’s father, Mr. Pontrelli, that during a school field trip on or about November 14, 2013, J.W. pinched R.P. who was waving her arms over J.W.’s head while on a school bus.

1 G. On or about November 21, 2013 the District issued a “Targeted Student Support
2 Plan” for R.P.

3 H. During the 2013-2014 school year the district issued Notices of Disciplinary
4 Action against J.W. dated November 7, 2013, November 15, 2013, November 18, 2013,
5 November 20, 2013 and February 6, 2014.

6 I. J.W. began receiving counseling from Erin Milhem, Psy.D. through her private
7 practice in July 2013. Dr. Milhelm was on staff and part of the team that assisted at the CARE
8 Clinic with Jensen’s clinical diagnosis in 2010. She was his first assigned clinician after the
9 2010 clinical diagnosis. J.W. received counseling from Dr. Wilhelm in 2010 and 2011.
10

11 J. During the 2013–14 school year, R.P.’s parents filed harassment, intimidation,
12 and bullying (“HIB”) complaints against J.W. for incidents that they allege occurred on
13 November 7, 2013, November 8, 2013, November 13, 2013, November 15, 2013, November
14 18, 2013, December 10, 2013, and December 11, 2013.

15 K. In an email dated December 16, 2013, Eugene Wong requested, among other
16 things, that R.P. be moved out of J.W.’s classroom and made a request to the District regarding
17 J.W.’s entire disciplinary record.
18

19 L. On January 6, 2014, the District issued its investigation report related to the HIB
20 complaints made by R.P.’s parents.

21 M. On or about January 10, 2014, the District presented a “Targeted Student Support
22 Plan” for J.W.
23

24 N. In or about January 2014, the District assigned J.W. with a one-to-one emergency
25 instructional assistant.

O. R.P.'s parents filed another HIB complaint against J.W. on February 6, 2014.

P. R.P.'s parents applied for and received a temporary restraining order ("TRO") against J.W. on February 7, 2014 under King County Superior Court Cause No. 14-2-04376-7. The TRO restrained J.W. from attending Schmitz Park Elementary School and ordered that J.W. be transferred to a different school. Despite the TRO not being served on J.W.'s parents, the District issued an emergency exclusion against J.W. and informed the parents J.W. could not attend school.

Q. On February 18, 2014, the TRO was reissued through February 25, 2014.

R. The TRO was dismissed on February 24, 2014, by King County Superior Court Judge Monica Benton.

S. The District transferred R.P. out of J.W.'s classroom and into a different classroom on February 24, 2014.

T. The last day that J.W. attended school at Schmitz Park Elementary, a District school, was February 6, 2014.

U. The District provided 2 hours of tutoring per day for two weeks prior to the quashing of the TRO on February 24, 2014.

V. The District sent J.W.'s father, Eugene Wong, an e-mail on February 28, 2014 with a reentry plan to Schmitz Park Elementary for March 3, 2014.

W. The Parents informed G. Kischner via a March 9, 2014 email that the District's proposed reintegration plan for J.W. failed to provide the necessary supports for J.W.

X. J.W. accessed tutoring from Yellow Wood Academy in March 2014 for the remainder of the 2013–2014 school year.

1 Y. Thereafter, J.W. attended the Academy for Precision Learning (“APL”) a private
2 school, since the beginning of the 2014-2015 school year.

3 Z. The Parents received copies of the disciplinary Notices in March of 2014 in
4 response to their education records requests.

5 AA. The Parents made a request for an independent education evaluation (“IEE”) at
6 District expense, in the Spring of 2014. The District filed Due Process against J.W.’s parents
7 pursuant to IDEA with the Washington State Office of Administrative Hearings) on or about
8 June of 2014. The District alleged, inter alia, that the District’s 2012 Tri-Annual-Re-Evaluation
9 was appropriate and would defend the Re-Evaluation provided J.W. a free and appropriate
10 education (“FAPE”) under the IDEA during the 2012-2013, 2013-2014 school years.
11

12 BB. The District subsequently dismissed the due process action and paid for the IEE
13 conducted by Dr. Alison Brooks.

14 CC. J.W. began attending the Academy for Precision Learning (“APL”), a private
15 school since the beginning of the 2014–2015 school year.
16

17 DD. The Parents filed a request for due process hearing against the District pursuant to
18 the IDEA with the Washington State Office of Administrative Hearings (OSPI Cause No.
19 2015-SE-0018) on March 2, 2015. The Parents alleged, inter alia, that the District denied J.W.
20 a free and appropriate education (“FAPE”) under the IDEA during the 2013–2014, 2014–2015,
21 and 2015–2016 school years.
22

23 EE. After trial in that action, the administrative law judge (“ALJ”) issued findings of
24 fact and conclusions of law. He found that the District failed to provide J.W. with a FAPE
25 under the IDEA, and awarded certain remedies to the parents which the District provided.

1 FF. The Parents filed another request for Due Process hearing under OSPI Cause No.
2 2016-SE-0082.

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4
5 (4) **Issues of Law**

6 **Plaintiffs' Issues of Law**

7 Plaintiff asserts the following are the issues of law to be determined by the court:

8 1. Whether the District violated Title II of the Americans with Disabilities Act by
9 subjecting Plaintiff JW to discriminatory treatment, excluding JW from attending school,
10 punishing him for his disability, failing to allow him to access education, and failing to provide
11 accommodations?

12 2. Whether the District discriminated against the Plaintiff JW, and others who are
13 similarly situated, by denying full and equal access to a Free and Appropriate Public Education
14 (FAPE) in derogation of 42 U.S.C. § 12131 *et seq.*, and whether the District is still
15 discriminating?
16

17 3. Whether the District denied JW meaningful access under Title II of the Americans
18 with Disabilities Act and the Section 504 of the Rehabilitation Act by failing to provide JW with
19 appropriate educational and related services, accommodations, and supplemental services which
20 he required in order to have access to the District's programs and services, and to make
21 appropriate developmental and educational progress equal to that provided to children without
22 disabilities?
23

24 4. Whether the District acted with deliberate indifference towards JW by failing to
25 provide accommodations when they were on notice of his need for accommodations?

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1 5. Whether the District acted with deliberate indifference towards JW by disciplining him
2 without cause and without parental notification despite being on notice of his disability?

3 6. Whether the District acted with deliberate indifference towards JW by failing to keep
4 JW safe from harm despite his disability?

5 7. Whether the District acted with deliberate indifference towards JW by excluding him
6 from school and access to education despite being on notice of his disability?

7 8. Whether JW is entitled to damages, injunctive relief, and attorney's fees and costs
8 incurred?
9

10 **Defendant's Issues of Law**

11 The District objects to the Plaintiffs' statement of issues of law as overly complex,
12 repetitive, and confusing. The District also objects to the Plaintiffs' second proposed issue of law
13 to the extent that it relates to "others who are similarly situated." The Plaintiffs do not represent a
14 class and do not have standing to bring claims on behalf of others.
15

16 The District proposes the following issues of law:

17 1. Whether the District violated Title II of the Americans with Disabilities Act
18 ("ADA") or Section 504 of the Rehabilitation Act ("Section 504") by failing to provide Plaintiff
19 J.W. with meaningful access to its programs between November 14, 2013 and May 31, 2016.

20 2. Whether the District violated the ADA or Section 504 by failing to provide Plaintiff
21 J.W. with reasonable accommodations.

22 3. Whether the District violated the ADA or Section 504 by failing to provide Plaintiff
23 J.W. with a free and appropriate public education ("FAPE") within the meaning of either statute
24 between November 14, 2013 and May 31, 2016.
25

1 4. If the District violated the ADA or Section 504 in its treatment of Plaintiff J.W.
2 between November 14, 2013 and May 31, 2016, did it do so with deliberate indifference?

3 **Expert Witnesses**

4 A. The parties are in dispute as to the number of expert witnesses to be called. Defendant has
5 filed motions in limine to exclude certain experts identified by Plaintiffs.

6 **Plaintiffs expect to call the following expert witnesses:**

- 7 1. Dr. Erin Milhem
8 528 E. Spokane Falls Blvd., Ste. 26A
9 Spokane, WA 99202

10 Dr. Milhem was JW's therapist for many years. She will testify as a treating provider and
11 an expert regarding her knowledge of JW, the harm caused to JW by the District, and all other
12 facts and circumstances giving rise to this matter.

- 13 2. Dr Rina Marie Leon Guerrero
14 PEERS PLAY
15 6239 Woodlawn Avenue N.
16 Seattle, WA 9810

17 Dr. Leon Guerrero will testify as a treating provider regarding her knowledge of J.W., the
18 and all other facts and circumstances giving rise to this matter.

- 19 3. Patricia A. Moroney (may testify)
20 1808 East Union Street, Suite G
21 Seattle, WA 98122

22 Ms. Moroney is JW's SLP. She will testify as a treating provider and an expert regarding
23 her knowledge of JW, and of all other facts and circumstances giving rise to this matter.

- 24 4. Dr. Julie Osterling (may testify)
25 Formerly w/ Care Clinic
26 Contact information to be provided

27 Dr. Osterling will testify regarding an evaluation performed on JW.

1 5. Thom Thompson
2 Thompson & Assoc.
3 700 N.W. Gilman Blvd. #375
4 Issaquah, WA 98027
5 425-427-2988

6 Mr. Thompson will testify as an expert regarding the District's duties to protect students
7 with disabilities and the breaches of said duties.

8 6. Brooks Powers Group
9 1200 Westlake Avenue N., Ste. 810
10 Seattle, WA 98109

11 Dr. Brooks will testify regarding her knowledge of JW and her evaluations performed on
12 JW.

13 7. Judith Parker (Vocational Expert)
14 OSC Vocational Systems, Inc.
15 10132 N.E. 185th Street
16 Bothell, WA 98011

17 Judith Parker will testify regarding the vocational damages and loss of earning capacity for
18 JW as a result of the District's harm to J.W.

19 **Defendant expects to call the following expert witness:**

20 1. Dr. Allison Brooks
21 Brooks Powers Group
22 1200 Westlake Avenue N. Ste. 810
23 Seattle, WA 98011

24 Dr. Brooks will testify regarding her evaluations of J.W. in 2014 and 2016, including her
25 lay and expert knowledge related to J.W. and any actual or potential underlying
26 conditions or medical diagnoses identified in her evaluations.

27 **Other Witnesses**

1 The names and addresses of witnesses, other than experts, to be used by each party at the
2 time of trial and the general nature of the testimony are:

3 **Witnesses on Behalf of Plaintiffs**

4 8. Eugene and Jennifer Wong
5 c/o Shaw Law Group PLLC
6 323 1st Avenue West
7 Seattle, WA 98119
8 206-623-1225

9 The Plaintiffs Wong will testify regarding their knowledge of their son, JW, and all facts
10 and circumstances giving rise to this matter.

11 **9. Witnesses on behalf of Plaintiffs from Seattle School District (“SPS”) Staff:**

12 **Schmitz Park (Genessee Hill) Elementary Staff and District current or former:**

13 The following SPS staff and administration will testify regarding their knowledge of JW,
14 his education and accommodations at SPS, and all facts and circumstances giving rise to this
15 matter, including, but not limited to JW’s IEP and BIP, needed accommodations and supports,
16 communications with Plaintiffs, dealings with other students and parents, including thePontrellis,
17 disciplinary notices, and HIB complaints.

18 Gerrit Kischner

19 Dorothy Wells

20 Sherri Estep (may call)

21 Sylwia Mazur Johnson (may call)

22 Frank Robertson, emergency instructional aide for JW

23 Liora Minkin (may call)

24 Ruth Solnit (may call)

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26 **HENRY & DEGRAFF, P.S.**
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Seattle Public Schools HIB/Security Department:

Peggy McAvoy

Beryl Miller

Special Education Department:

Ryan Richards

Mr. Richards may testify about the inability to find a safe and appropriate placement for JW in the District.

c/o Curran Law Firm
David Hokit, WSBA #13512
Sam Chalfant, WSBA #46080
555 West Smith Street
P.O. Box 140
Kent, WA 98035-0140
Phone: 253-852-2345

Other witnesses on behalf of Plaintiffs:

10. James Nakashima, bus driver (may call)

11660 18th Avenue S.W.
Burien, WA 98146-2523
206-605-1759

Mr. Nakashima will testify regarding the District's failure to notify him of J.W.'s safety plan.

11. David McMillin, former teacher (may call)
(509)263-3697

Mr. McMillin will testify regarding JW's second grade year, his knowledge of J.W. and his needs, , and how JW was bullied and lacked social supports in 2nd grade.

12. Scott Pontrelli, R.P.'s father
4047 52nd Place S.W.
Seattle, WA 98116

1 Mr. Pontrelli will testify regarding his dealings with the District, his HIB reports filed against
2 JW, his claims against the District, and communications with District Administration and staff.

3 Plaintiffs may call rebuttal witnesses that do not have to identified at this time.

4 Plaintiffs also reserve the right to call additional witnesses and list additional exhibits upon
5 receipt of discovery from the Academy of Precision Learning.

6
7 a) **On behalf of Defendant:** Dorothy Wells, c/o Curran Law Firm, P.S.; During the
8 2013–2014 school year, Ms. Wells was J.W.’s teacher at Schmitz Park Elementary
9 School. She attended IEP team meetings and other meetings related to J.W.,
10 communicated with the Parents regarding J.W., communicated with and directed staff
11 regarding J.W., and implemented services to J.W. It is expected that Ms. Wells will
12 testify regarding her knowledge and experiences as J.W.’s teacher during the 2013–
13 2014 school year, including his interactions with other students, and other matters
14 related to that school year at Schmitz Park Elementary School. *Will testify.*

15
16 b) **On behalf of Defendant:** Gerrit Kischner, c/o Curran Law Firm, P.S.; At all relevant
17 times, Mr. Kischner was the Principal at Schmitz Park Elementary School. He
18 attended IEP meetings and other meetings regarding J.W., communicated with the
19 Parents regarding J.W., directed staff regarding J.W., made administrative decisions
20 regarding J.W., communicated and interacted with R.P. and her parents, and made
21 administrative decisions related to R.P. It is expected that Mr. Kischner will testify
22 regarding his knowledge and experiences with J.W., R.P., and their respective parents
23 during the 2013–2014 school year. It is also expected that he will testify regarding
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1 other matters related to issues at Schmitz Park Elementary School that occurred
2 during the 2013–2014 school year. *Will testify.*

3 c) **On behalf of Defendant:** Sherri Estep, c/o Curran Law Firm, P.S., Ms. Estep was an
4 instructional assistant at Schmitz Park Elementary School during the 2013–2014
5 school year. She provided assistance to J.W., attended IEP team meetings and other
6 meetings regarding J.W., communicated with the Parents regarding J.W., and
7 implemented services to J.W. It is expected that Ms. Estep will testify regarding her
8 knowledge and experiences with J.W., her interactions with the Parents, and other
9 matters related to issues at Schmitz Park Elementary School that occurred during the
10 2013–2014 school year. *Will testify.*

12 d) **On behalf of Defendant:** Craig Garretson, c/o Curran Law Firm, P.S.; Mr. Garretson
13 was an instructional assistant at Schmitz Park Elementary School during the 2013–
14 2014 school year. He supervised J.W. during that school year, attended IEP team
15 meetings and other meetings regarding J.W., communicated with the Parents
16 regarding J.W., and implemented services to J.W. It is expected that Mr. Garretson
17 will testify regarding his knowledge and experiences with J.W., his interactions with
18 the Parents, and other matters related to issues at Schmitz Park Elementary School
19 that occurred during the 2013–2014 school year. *Will testify.*

21 e) **On behalf of Defendant:** Sylwia Johnson, c/o Curran Law Firm, P.S.; Ms. Johnson
22 was a special education resource room teacher at Schmitz Park Elementary School
23 during the 2013–2014 school year. She taught J.W., attended IEP team meetings and
24 other meetings regarding J.W., communicated with the Parents regarding J.W.,
25

communicated with and directed staff regarding J.W., and implemented services to J.W. It is expected that Ms. Johnson will testify regarding her knowledge and experiences with J.W., her interactions with the Parents, and other matters related to issues at Schmitz Park Elementary School that occurred during the 2013–2014 school year. *Will testify.*

f) **On behalf of Defendant:** Ruth Solnit, c/o Curran Law Firm, P.S.; Ms. Solnit was a special education resource room teacher at Schmitz Park Elementary School during the 2013–2014 school year. She taught J.W., attended IEP team meetings and other meetings regarding J.W., communicated with the Parents regarding J.W., communicated with and directed staff regarding J.W., and implemented services to J.W. It is expected that Ms. Solnit will testify regarding her knowledge and experiences with J.W., her interactions with the Parents, and other matters related to issues at Schmitz Park Elementary School that occurred during the 2013–2014 school year. *Will testify.*

g) **On behalf of Defendant:** Carole Sealy, c/o Curran Law Firm, P.S.; Ms. Sealy was J.W.'s physical education teacher at Schmitz Park Elementary School during the 2013–2014 school year. She communicated with staff regarding J.W. and implemented services to him during that year. It is expected that Ms. Sealy will testify regarding her knowledge and experiences as J.W.'s physical education teacher during the 2013–2014 school year and other matters related to that school year at Schmitz Park Elementary School. *Possible witness only.*

1 h) **On behalf of Defendant:** Frank Robertson, c/o Curran Law Firm, P.S.; Mr.

2 Robertson was an instructional assistant at Schmitz Park Elementary School during
 3 the 2013–2014 school year. He served as a 1:1 instructional assistant for J.W. during
 4 a portion of that school year and implemented services to J.W. It is expected that Mr.
 5 Robertson will testify regarding his knowledge and experiences with J.W., his role as
 6 an instructional assistant, and other matters related to issues at Schmitz Park
 7 Elementary School that occurred during the 2013–2014 school year. *Possible witness*
 8 *only.*

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 10 i) **On behalf of Defendant:** Nedra Peterson, c/o Curran Law Firm, P.S.; Ms. Peterson
 11 was a consulting teacher for the District during the 2013–2014 school year. She
 12 attended IEP meetings and other meetings regarding J.W. and communicated with the
 13 Parents regarding J.W. It is expected that Ms. Peterson will testify regarding her
 14 knowledge and experiences attending meetings related to J.W., her interactions with
 15 the Parents, and other matters related to the 2013–2014 school year at Schmitz Park
 16 Elementary School. *Possible witness only.*

17
 18 j) **On behalf of Defendant:** Ryan Richards, c/o Curran Law Firm, P.S.; Mr. Richards
 19 was a special education administrator who was involved in the development of J.W.’s
 20 special education programing and communicated with the Parents in the spring and
 21 summer of 2014. It is expected that Mr. Richards will testify about his knowledge
 22 regarding J.W.’s programing, his interactions with the Parents, and other matters
 23 related to the 2013–2014 school year. *Possible witness only.*

1 k) **On behalf of Defendant:** Michael Wells, c/o Curran Law Firm, P.S.; Mr. Wells was
2 a member of the District's Safety and Security Department who investigated HIB
3 complaints against J.W. made by R.P.'s parents through December 11, 2013 and
4 issued an investigation report on January 6, 2014. It is expected that Mr. Wells will
5 testify about the knowledge he gathered throughout his investigations and any
6 conclusions at which he arrived. *Possible witness only.*

7 l) **On behalf of Defendant:** Pegi McEvoy, c/o Curran Law Firm, P.S.; Ms. McEvoy
8 was an assistant superintendent of operations for the District. She was involved in the
9 in the investigations of HIB complaints against J.W. It is expected that she will testify
10 regarding her knowledge of HIB allegations against J.W. in the 2013–2014 school
11 year. *Possible witness only.*

12 m) **On behalf of Defendant:** Beryl Miller, c/o Curran Law Firm, P.S.; Ms. Miller was a
13 HIB compliance officer. She was involved in the investigations of HIB complaints
14 against J.W. and was also involved in the development of J.W.'s March 17, 2014 BIP.
15 It is expected that she will testify regarding her knowledge of HIB allegations against
16 J.W. in the 2013–2014 school year and the development of J.W.'s March 17, 2014
17 BIP. *Possible witness only.*

18 n) **On behalf of Defendant:** Alison Moors-Lipshin, last known address was the
19 Academy of Precision Learning, 5031 University Way NE, No. 105, Seattle, WA
20 98105; Ms. Moors-Lipshin was the Director of Specialized Learning at APL. It is
21 expected that Ms. Moors-Lipshin will testify regarding her knowledge and
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experiences with J.W. since he began to attend APL at the beginning of the 2014–
2015 school year. *Possible witness only.*

o) **On behalf of Defendant:** Ben Wahl, Aspiring Youth Ryther – Main Campus, 2400
NE 95th St., Seattle, WA 98115; Mr. Wahl is a program director at Ryther, where
J.W. received services over the summer in 2015 and 2016. Upon information and
belief, Mr. Wahl made administrative decisions related to J.W. and provided
instruction to J.W. during those periods. Mr. Wahl was also interviewed by Dr.
Brooks in August 2016. It is expected that Mr. Wahl will testify regarding his
knowledge of and experiences with J.W. related to J.W.’s attendance at Ryther’s
summer program and APL. *Possible witness only.*

p) **On behalf of Defendant:** Peter Klingman, Academy of Precision Learning, 5031
University Way NE, No. 105, Seattle, WA 98105; Was a behavior technician at APL.
Upon information and belief, Mr. Klingman worked with JW during his time at APL.
It is expected that Mr. Klingman will testify regarding his knowledge of and
experiences with JW related to JW’s attendance at APL. *Possible witness only.*

Defendant also reserves the right to call additional witnesses and list additional exhibits
upon receipt of discovery from the Academy of Precision Learning.

(5) **Exhibits**

A. Admissibility Stipulated.

Plaintiffs’ Exhibits:

Plaintiffs' Ex. No.	Authenticity	Admissibility
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58	Stipulate	Stipulate
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61	Stipulate	Stipulate
62	Stipulate	Stipulate
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66	Stipulate	Stipulate
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69	Stipulate	Stipulate
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79	Stipulate	Stipulate
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81	Stipulate	Stipulate
82	Stipulate	Stipulate
83	Stipulate	Stipulate
84	Stipulate	Stipulate
85	Stipulate	Stipulate
86	Stipulate	Stipulate
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88	Stipulate	Stipulate
89	Stipulate	
90	Stipulate	
91	Stipulate	
92		
93	Stipulate	
94		
95	Stipulate	Stipulate
96	Stipulate	Stipulate
97		
98		
99		
100	Stipulate	Stipulate
101	Stipulate	
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104	Stipulate	
105	Stipulate	
106	Stipulate	Stipulate
107	Stipulate	Stipulate
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109		
110		
111	Stipulate	Stipulate
112	Stipulate	Stipulate
113	Stipulate	Stipulate
114	Stipulate	Stipulate
115	Stipulate	Stipulate

116	Stipulate	Stipulate
117		
118		
119		
120		
121		
122		
123	Stipulate	
124		
125		
126		
127		

Defendant's Exhibits:

Defendants' Ex. No.	Authenticity	Admissibility
124 (200)	Stipulate	
125 (201)		
126 (202)	Stipulate	
127(203)	Stipulate	Stipulate
128 (204)	Stipulate	Stipulate
129 (205)	Stipulate	Stipulate
130 (206)	Stipulate	Stipulate
131 (207)	Stipulate	Stipulate
132 (208)	Stipulate	Stipulate
133 (209)	Stipulate	Stipulate
134 (210)	Stipulate	Stipulate
135 (211)	Stipulate	Stipulate
136 (212)	Stipulate	Stipulate
137 (213)	Stipulate	Stipulate
138 (214)	Stipulate	
139 (215)	Stipulate	
140 (216)	Stipulate	
141 (217)	Stipulate	Stipulate
142 (218)	Stipulate	Stipulate
143 (219)		
144 (220)	Stipulate	Stipulate
145 (221)	Stipulate	Stipulate

1	146 (222)	Stipulate	Stipulate
	147(223)	Stipulate	Stipulate
2	148 (224)	Stipulate	
	149 (225)	Stipulate	Stipulate
3	150 (226)	Stipulate	Stipulate
	151 (227)		
4	152 (228)	Stipulate	Stipulate
	153 (229)		
5	154 (230)	Stipulate	Stipulate
	155 (231)	Stipulate	Stipulate
6	156 (232)	Stipulate	Stipulate
	157 (233)		
7	158 (234)	Stipulate	Stipulate
	159 (235)	Stipulate	Stipulate
8	160 (236)	Stipulate	Stipulate
	161 (237)		
9	162 (238)		
	163 (239)	Stipulate	Stipulate
10	164 (240)	Stipulate	Stipulate
	165 (241)	Stipulate	Stipulate
11	166 (242)	Stipulate	Stipulate
	167 (243)	Stipulate	Stipulate
12	168 (244)	Stipulate	Stipulate
	169 (245)	Stipulate	Stipulate
13	170 (246)	Stipulate	Stipulate
	171 (247)	Stipulate	Stipulate
14	172 (248)		
	173 (249)		
15	174 (250)	Stipulate	Stipulate
	175 (251)		
16	176 (252)	Stipulate	Stipulate
	177 (253)	Stipulate	Stipulate
17	178 (254)	Stipulate	Stipulate
	179 (255)		
18	180 (256)		
	181 (257)	Stipulate	Stipulate
19	182 (258)	Stipulate	Stipulate
	183 (259)	Stipulate	Stipulate
20	184 (260)	Stipulate	Stipulate
	185 (261)		
21	186 (262)	Stipulate	
	187 (263)		
22	188 (264)		
	189 (265)	Stipulate	Stipulate
23	190 (266)		
	191 (267)		
24	192 (268)		
	193 (269)		

194 (270)		
195 (271)		
196 (272)		
197 (273)		
198 (274)	Stipulate	Stipulate
199 (275)	Stipulate	Stipulate
200 (276)	Stipulate	Stipulate
201 (277)	Stipulate	Stipulate
202 (278)	Stipulate	Stipulate
203 (279)	Stipulate	Stipulate
204 (280)	Stipulate	Stipulate
205 (281)	Stipulate	Stipulate
206 (282)	Stipulate	Stipulate
207 (283)		
208 (284)		
209 (285)		
210 (286)	Stipulate	Stipulate
211 (287)	Stipulate	Stipulate
212 (288)		
213 (289)		

(6) Action by the Court

- a. This case is scheduled for trial without a jury on October 23, 2018.
- b. Trial briefs are due September 24, 2018.

This order has been approved by the parties as evidence by the signatures of their counsel. This order shall control the subsequent course of action unless modified by subsequent order. This order shall not be amended except by order of the court pursuant to agreement by the parties or to prevent manifest injustice.

Respectfully submitted this 17 day of September 2018.

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